

Equipment Usage and Conditions Rider
Pursuant to Prop 1B Goods Movement Emission Reduction Program

LEASE RIDER NO. ____

This Schedule Rider amends and incorporates Equipment Schedule No. ____ to that certain Master Lease Agreement dated as of ____, 200__ (the "Lease") between ____ ("Lessor") and ____ ("Lessee").

The Equipment in the Lease is being acquired by the Lessor and leased to the Lessee pursuant to the California Environmental Protection Agency Air Resources Board Goods Movement Emission Reduction Program ("the Program"). Lessor has received a grant under the Program (the "Grant"). The Program is a partnership between the California Air Resources Board (CARB), the South Coast Air Quality Management District (SCAQMD), the Port of Los Angeles (POLA), and the Port of Long Beach (POLB). The Program seeks to reduce diesel particulate matter and nitrogen oxide emissions in communities heavily impacted by goods movement operations by, among other means, providing grants to promote the replacement of older heavy duty diesel trucks with newer, cleaner trucks under lease-to-own programs. **The purpose of the Program is also to provide the Lessee with the option of taking ownership of the vehicle at the end of the Lease.**

As a condition for the grant, the Equipment must meet certain minimum condition and use requirements. It is the intent of the parties that the benefits of the grant are passed along to the Lessee through reduced lease payments, provided that Lessee operates the Equipment in compliance with the Program's requirements.

Lessee agrees that SCAQMD and CARB are Third Party Beneficiaries of the Lease and, therefore, shall have the full authority to enforce the terms of this Lease and Lease Rider at any time during the Lease term to ensure that emission reductions under this Lease are obtained. AQMD and CARB will seek whatever legal, equitable and other remedies are available for the Lessee's failure to comply with the terms of this Lease Rider or with the Goods Movement Emission Reduction Program – Final Guidelines for Implementation, adopted February 28, 2008, as modified and clarified in all applicable CARB Resolutions and Executive Orders, incorporated herein.

Nonperformance under this Lease includes, but is not limited to: failure to meet lease terms and conditions, including but not limited to those set forth below; non-operational or malfunctioning equipment; failure to meet completion deadlines; failure to allow electronic monitoring device, or tampering with device or its data; misuse of vendor's payments; insufficient, incomplete, or faulty documentation; and failure to provide documentation or reports in a timely manner.

Lessee may be subject to remedies for non-performance, which may include but is not limited to: recovery of funds; fiscal penalties based on severity of non-performance; lease cancellation; a ban on future State or local incentive programs; and prohibition of equipment from State or local incentive program participation.

CONDITIONS PRECEDENT

Lessor's obligations under each Equipment Schedule, including its obligation to purchase and lease any Equipment to be leased thereunder, are further conditioned upon Lessor's determination that all of the following additional conditions have been satisfied:

- 1) Lessor having received the following, in form and substance satisfactory to Lessor:
 - a) A certificate of the Equipment seller or dealer evidencing the permanent removal from service (scrap) of the Lessee's MY2003 or older, Class 8, goods hauling diesel truck (Replaced Truck);
- 2) The Equipment shall meet the following requirements:
 - a) Engine must be certified by CARB to comply with both Family Emission Level (FEL) and certification (CERT) values equal to or lower than 1.20 g/bhp-hr for NOx and 0.01g/bhp-hr for PM (for those trucks committed to meeting the MY 2010 standard, the applicable NOx emissions level is **0.20 g/bhp-hr**)

- b) The engine on the Equipment must be covered by an Executive Order documenting that the engine is certified at or below the 20 07 emissions standards;
- 3) The truck which is being replaced ("Replaced Truck") shall be delivered to the motor vehicle dealer for their proper handling of the destruction of the replaced truck or directly to a pre-approved DMV licensed dismantler;
- 4) Lessor shall allow the Equipment to be inspected by the SCAQMD within 30 days of receiving the fully operational Equipment to verify compliance with all Program requirements.
- 5) Lessor has received a copy of the California Dept. of Motor Vehicles (DMV) Certificate of Replaced Vehicle Receipt and Destruction completed by both the Lessee and dismantler;
- 6) Photos evidencing destruction of the Replaced Truck have been provided to the SCAQMD from the dismantler;
- 7) Lessee has timely filed a VIN hold and a Non-Repairable Vehicle Certificate for the Replaced Truck with the DMV;
- 8) A Letter of Opinion of Tax Counsel.

ADDITIONAL LESSEE REPRESENTATIONS

- 1) Lessee shall maintain records including but not limited to annual vehicle miles traveled, number of port/rail yard visits, and maintenance records as required by the Lessor and/or SCAQMD to comply with Program requirements.
- 2) Records required by the Lessor and/or SCAQMD to comply with Program requirements shall be retained for at least two years after the SCAQMD Contract term or three years after final payment by SCAQMD, whichever is later.
- 3) Lessee agrees to allow ongoing evaluations, inspections and audits of the Equipment and related documentation, including registration status and operational records, by the Lessor, SCAQMD or other agency to insure Program requirements are met.
- 4) Lessee agrees to at least 5 years or 350,000 miles of 100% California-only operation and California-based plate registration.
- 5) Lessee agrees to at least 50% of travel in trade corridors for the duration of the SCAQMD grant.
- 6) Lessee hereby certifies that, after execution of this Lease, Lessee shall not submit an application to, or execute another contract, for any additional grant of funds for the same Equipment subject to this Lease. Lessee acknowledges that violation of this certification shall, at a minimum, result in Lessee being disqualified from receiving funding for such equipment from all sources and may further result in Lessee being banned from submitting any future applications to any and all Goods Movement Emission Reduction Program solicitations. In addition, as a violation of law, CARB and the AQMD may levy fines and/or seek criminal charges against Lessee. Lessee to initial here acknowledging compliance _____.

USE AND MAINTENANCE OF VEHICLES

- 1) Lessee is prohibited from removing the Equipment from the State of California.
- 2) Equipment will be placed in operation as a replacement of a Replaced Truck (as defined in the Program) and Lessee shall inform Lessor where the Equipment is based in California.
- 3) Lessee shall operate the Equipment for a minimum of 5 years following lease inception or for 350,000 miles, whichever comes first.
- 4) Lessee shall accrue at least 50% of the Equipment's annual mileage or engine hours of operations within the trade corridors as defined in the Goods Movement Emission Reduction Program Guidelines.

- 5) Lessee shall make at least 300 trips per year to terminals within the Port of Los Angeles and/or within the Port of Long Beach for 5 years. [Lessee shall make at least 150 trips per year to terminals within the Port of Los Angeles and/or within the Port of Long Beach for 4 years.]
- 6) Lessee shall maintain vehicle registration for the Equipment within the State of California and as a California based vehicle at all times during the term of the lease agreement.
- 7) Lessee shall make the Equipment available for inspection as may be requested from time to time by the Lessor, the SCAQMD, CARB, or other agency.
- 8) Lessee hereby agrees to the installation of on-board global positioning satellite equipment on the Equipment to monitor compliance with the Program, if requested by Lessor, the SCAQMD, or other agency.
- 9) Lessee hereby agrees to make operational information for the Equipment available upon request by Lessor, the SCAQMD or any other agency.

ADDITIONAL REQUIREMENTS AND PROVISIONS

- 1) Lessee shall obtain, and furnishes evidence to Lessor or AQMD of, collision and comprehensive insurance with minimum coverage limits equal to the replacement value of the vehicle. AQMD shall be named as an additional insured on any such liability policy, and thirty (30) days written notice prior to cancellation of any such insurance shall be given to AQMD.
- 2) Lessee hereby certifies that it is an independent contractor, and that none of its officers, employees, agents, or representatives shall be construed as agents or employees of AQMD or CARB.
- 3) Lessee shall make available any data or information necessary to prepare the annual progress reports to the AQMD under this Lease, for a period of at least five (5) years after the equipment is placed into service.
- 4) If any provision of the Master Lease Agreement conflicts with the terms of this Lease Rider, the provisions of this Lease Rider shall govern.
- 5) Amendments to this Lease Rider shall only occur by mutual agreement in writing by: the Lessee, the Lessor, and AQMD.
- 6) A Spanish-translated version of this Lease Rider may be provided to Lessee which shall be non-binding and be for information purposes only. The English-language Lease Rider shall govern at all times, and shall be the only document which constitutes the agreement between the parties.

Reporting Requirements

LESSEE shall submit annual progress reports to the AQMD under this Lease for a period of at least five (5) years after the equipment is placed into service. Each submitted report shall be stapled, not bound, printed in black ink, double-sided type, on an 8-1/2 by 11 inch page, and shall include camera-ready originals.

LESSEE shall provide two stapled copies of each progress report to be submitted annually for the term of the Lease. This document shall be considered in the public domain, in conformance with the California Public Records Act (Government Code Section 6250 et seq.). The annual report shall include, but not be limited to, the following for the equipment funded under this Contract:

- a. Reference to AQMD contract number and title of project.
- b. Name, address and phone number of the contact person.
- c. Proof of California registration for each piece of equipment.
- d. Color photographs in a digital format, such as .ppt, .tif, .jpg on a CD or sent electronically, of:
 - Each piece of equipment funded.
 - The fueling site used by the equipment, if the equipment is powered by alternative fuel.
- e. A description of the operation of the equipment, including:
 - Odometer reading at the end of the reporting period.

- Annual miles traveled per vehicle in service during the reporting period (including mileage/activity logs for documentation).
 - Annual miles traveled in each of the four trade corridors or percentage of the total annual miles traveled in each of the four trade corridors.
 - Amount of fuel purchased during the reporting period.
 - Discussion of vehicle performance, including any inspections, repairs and/or maintenance performed.
- f. Certification of California-only operation (including certification that permits were not utilized to make out-of-state trips).
 - g. Certification and documentation of at least 50% of travel within the four trade corridors.
 - h. Certification that the vehicles funded was operated in accordance with signed contract and that all information submitted is true and accurate.
 - i. Problems - a discussion of any significant problems encountered during the year and how they were resolved.

The Annual Reports shall be submitted pursuant to the following schedule:

Annual Progress Reports	October 20, 2010 October 20, 2011 October 20, 2012 October 20, 2013 October 20, 2014
Final Annual Progress Report	January 20, 2015